CS FOR SENATE BILL NO. 121(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/4/22 Referred: Finance

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Sponsor(s): SENATORS KIEHL, Gray-Jackson, Kawasaki, Stevens, Begich, Costello, Wielechowski

A BILL

FOR AN ACT ENTITLED

- 1 "An Act relating to pollutants; relating to perfluoroalkyl and polyfluoroalkyl
- 2 substances; relating to the duties of the Department of Environmental Conservation;
- 3 relating to firefighting substances; relating to thermal remediation of perfluoroalkyl and
- 4 polyfluoroalkyl substance contamination; and providing for an effective date."

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 46.03 is amended by adding new sections to read:

Article 5A. Perfluoroalkyl and Polyfluoroalkyl Substances.

Sec. 46.03.340. Testing; drinking water. (a) The department shall ensure the responsible party tests for perfluoroalkyl substances and polyfluoroalkyl substances in all drinking water used in the state that is in a water supply located in the state when a perfluoroalkyl substance or polyfluoroalkyl substance is released in the area of the water supply. If a test conducted under this subsection detects a perfluoroalkyl substance or polyfluoroalkyl substance at a level equal to or greater than the limit described in (b) of this section, the department shall ensure the

1	responsible party provides a person who routinely uses the tested drinking water, at no	
2	cost to the person, a source of drinking water containing levels of perfluoroalkyl	
3	substances and polyfluoroalkyl substances lower than the limits described in (b) of this	
4	section.	
5	(b) For purposes of (a) of this section, the limit of perfluoroalkyl substance or	
6	polyfluoroalkyl substance contamination in water is the lesser of	
7	(1) the limit established by the department in regulation; or	
8	(2) the following limits:	
9		CUTOFF CONCENTRATION
10	SUBSTANCE	(parts per trillion)
11	perfluorobutanesulfonic acid	420
12	perfluorooctanoic acid	8
13	perfluorooctanesulfonic acid	16
14	perfluorononanoic acid	6
15	perfluorohexanesulfonic acid	51
16	perfluoroheptanoic acid	400,000
17	hexafluoropropylene oxide dimer acid	370.
18	Sec. 46.03.345. Liability for drinking water and drinking water testing. (a)	
19	A person who causes a fire that results in a release of a firefighting substance	
20	containing a perfluoroalkyl substance or polyfluoroalkyl substance is liable for the	
21	costs of providing drinking water and drinking water testing under AS 46.03.340. This	
22	subsection does not apply to a release of a firefighting substance to extinguish a fire in	
23	a residential building or motor vehicle.	
24	(b) A government agency that requires a release of a firefighting substance	
25	that contains a perfluoroalkyl substance or polyfluoroalkyl substance is liable for the	
26	costs of providing drinking water and drinking water testing under AS 46.03.340 for	
27	the required release.	
28	(c) A person who extinguishes a fire by releasing a firefighting substance that	
29	contains a perfluoroalkyl substance or polyfluoroalkyl substance is not liable for the	
30	costs of providing drinking water and drinking water testing under AS 46.03.340 or	
31	site cleanup under this chapter, AS 46.08, A	AS 46.09, or another state law unless the

1	firefighting substance was released for training or testing purposes.
2	(d) The liability of a person or agency for costs under this section is in
3	addition to other liability under this chapter, AS 46.08, AS 46.09, or other state law for
4	a release of a perfluoroalkyl substance or polyfluoroalkyl substance.
5	(e) In this section,
6	(1) "motor vehicle" has the meaning given in AS 28.90.990, but does
7	not include a commercial motor vehicle, as defined in AS 28.90.990;
8	(2) "residential building" has the meaning given in AS 18.60.780.
9	Sec. 46.03.350. Use of firefighting substances. (a) A person engaged in the
10	business of oil or gas production, transmission, transportation, or refining may use a
11	firefighting substance that contains a perfluoroalkyl substance or polyfluoroalkyl
12	substance in the state unless the state fire marshal adopts regulations under (b) of this
13	section requiring use of an alternative firefighting substance.
14	(b) If the state fire marshal determines an alternative firefighting substance
15	listed by an organization recognized by the federal Occupational Safety and Health
16	Administration's Nationally Recognized Testing Laboratory Program is safe and
17	effective, the state fire marshal shall adopt regulations requiring use of the alternative
18	firefighting substance. The regulations must state the proposed effective date of the
19	regulations.
20	(c) The department shall accept for disposal from a person domiciled in the
21	state a firefighting substance that contains a perfluoroalkyl substance or
22	polyfluoroalkyl substance in a quantity not to exceed 25 gallons each year.
23	(d) Notwithstanding AS 46.03.320 and except as provided in (a) of this
24	section, a person may not use a firefighting substance that contains a perfluoroalkyl
25	substance or polyfluoroalkyl substance in the state unless the use is required by federal
26	law.
27	Sec. 46.03.355. Thermal remediation permit. A facility that thermally
28	remediates a perfluoroalkyl or polyfluoroalkyl substance contamination must have a
29	permit from the department under 42 U.S.C. 7661 - 7661f (Clean Air Act, secs. 501 -
30	507) authorizing the remediation. The department may not issue a permit or allow a

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facility to retain a permit issued under this section if the department determines that

1	the remediation will result in the release of more than a minimal amount of an airborne
2	compound with a carbon-fluorine bond detectable through source testing. Source
3	testing under this section must include testing of all compounds with a carbon-fluorine
4	bond for which the United States Environmental Protection Agency has approved a
5	testing methodology.
6	Sec. 46.03.359. Definitions. In AS 46.03.340 - 46.03.359, "perfluoroalkyl
7	substance" and "polyfluoroalkyl substance" include
8	(1) perfluorooctanoic acid;
9	(2) perfluorooctanesulfonic acid;
10	(3) perfluorononanoic acid;
11	(4) perfluorohexanesulfonic acid;
12	(5) perfluoroheptanoic acid;
13	(6) perfluorobutanesulfonic acid;
14	(7) hexafluoropropylene oxide dimer acid;
15	(8) other perfluoroalkyl substances or polyfluoroalkyl substances
16	specified by the department in regulation.
17	* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to
18	read:
19	APPLICABILITY; RETROACTIVITY. AS 46.03.345, added by sec. 1 of this Act,
20	applies retroactively to a release of a perfluoroalkyl substance or polyfluoroalkyl substance
21	occurring before, on, or after the effective date of sec. 1 of this Act.
22	* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to
23	read:
24	TRANSITION: REGULATIONS. The Department of Environmental Conservation
25	shall adopt regulations necessary to implement this Act. The regulations take effect under
26	AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
27	implemented by the regulation.
28	* Sec. 4. Sections 2 and 3 of this Act take effect immediately under AS 01.10.070(c).
29	* Sec. 5. Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2023.